

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

JAMES C. NEFF,

Petitioner,

v.

Case No. 1:19-cv-392
JUDGE DOUGLAS R. COLE

WARDEN, CHILLICOTHE
CORRECTIONAL INSTITUTION

Respondent.

ORDER

On February 5, 2020, the Magistrate Judge issued a Report and Recommendation (Doc. 10), which found this Court lacks jurisdiction over this habeas petition because it is a successive habeas petition within the meaning of 28 U.S.C. § 2244(b). The Magistrate Judge recommended this Court transfer the petition, pursuant to 28 U.S.C. § 1631, to the United States Court of Appeals for the Sixth Circuit to review and determine whether this Court may consider the successive claims for relief.

The Report & Recommendation advised the Parties that a failure to object within the 14 days specified by the Report & Recommendation may result in forfeiture of rights on appeal, which includes the right to District Court review. (*See* Doc. 10, #502). *See also Thomas v. Arn*, 474 U.S. 140, 149–53 (1985) (“There is no indication that Congress, in enacting § 636(b)(1)(C), intended to require a district judge to review a magistrate’s report to which no objections are filed.”); *Berkshire v. Beauvais*, 928 F.3d 520, 530–31 (6th Cir. 2019) (noting “*fail[ure]* to file an objection

to the magistrate judge's R&R ... is forfeiture, not waiver") (emphasis in original); 28 U.S.C. § 636(b)(1)(C). The time for filing objections has passed and none have been filed.

Thus, the Court **ADOPTS** and **AFFIRMS** the Magistrate Judge's Report and Recommendation (Doc. 10) and **DIRECTS** the Clerk to **TRANSFER** the Petition for Writ of Habeas Corpus (Doc. 1) to the Sixth Circuit for review.

SO ORDERED.

February 24, 2020

DATE



DOUGLAS R. COLE

UNITED STATES DISTRICT JUDGE